

Dept. of Revenue drops TIFID case again

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Judge says DOR lacks standing to challenge schools' handling of funds

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After nearly 18 months of legal wrangling, a million-dollar controversy between local and state government over tax increment financing appears to be at an end.

The Montana Department of Revenue (DOR) filed a motion with 4th Judicial District Judge Ed McLean late last week seeking to vacate a hearing that had been set for Friday, Jan. 17, effectively dropping its lawsuit against Anaconda Public School District 10 (SDIO) over its handling of tax remittances from the Mill Creek Tax Increment Finance Industrial District 2 (TIFID).

The DOR's motion cited an order by Judge McLean from last October, in which he ruled that the department lacks standing to challenge SDIO's receipt of tax remittances from the TIFID, which the DOR claims is double taxation of Anaconda-Deer Lodge County residents.

After the DOR refused to certify ADLC's taxable values in July 2012 due to how the TIFID was being handled, the county objected, and at a hearing before Judge McLean the following month the DOR agreed to certify the values. However, the school district was enjoined to the dispute on the basis of the DOR's double taxation claims.

At a hearing in April 2013, the DOR argued that the TIFID funds should be treated as property taxes and deposited in the school district's general fund

rather than its flexibility fund, thereby reducing property taxes in the county since general funds have a maximum levy and flexibility funds do not. As a result, Judge McLean froze the funds SDIO was receiving from the TIFID in an interest-bearing escrow account pending a full hearing on the matter.

SDIO has contended that those funds were properly received through a tax remittance agreement under county Ordinance 212-B and deposited into its flexibility fund after consultation with the Office of Public Instruction, the office that handles public school funding procedures in Montana, stating that their representatives indicated this was allowable under Montana law. In a previous *Anaconda Leader* report, a senior OPI official stated that many school districts in Montana receive tax increment finance funds. SDIO argued that by challenging their receipt of these funds, and not those of other districts, the DOR was unequally singling them out.

In his October 2013 order, Judge McLean found that the DOR had no standing in the case since it had not been affected by the school district's handling of these funds, stating it has no authority over individual school district budgets and only the taxpayers of Anaconda-Deer Lodge County could bring such a suit. He also set a hearing to address the question of whether the DOR was treating SDIO inequitably with regard to tax increment financing.

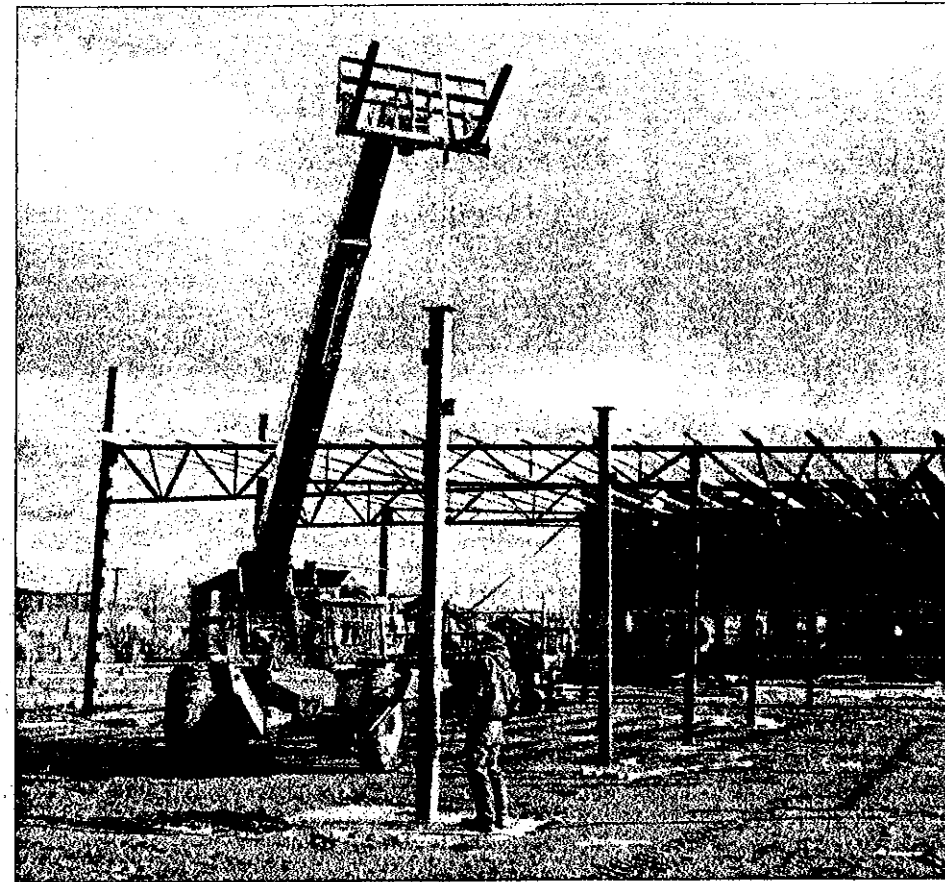
That question appears moot however, now that the judge has granted the DOR's motion to vacate the hearing and dismiss the case, with no objection from the school district, which filed its own motion to have the freeze lifted on its share of the tax remittances.

As of press time today, there has not been word whether the judge had lifted the freeze on SDIO's remittances from the TIFID. Those funds are now approaching over \$1.5 million, Darnell said.

Both parties made statements on the recent developments in the case. From the DOR:

"Following the judge's order in October 2013, where he concluded that the department does not have standing to challenge the alleged double taxation by SDIO using the Tax Increment Finance Industrial District (TIF), the department has determined that the remaining issues in dispute scheduled for hearing on

Tall order



Workers with Leading Tech out of Ogden, Utah use a forklift to put up the store at the 300 block of East Commercial Avenue. Leader photo by Jar